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Letter dated 17 November 2008 from the Permanent Representative of the former Yugoslav Republic of Macedonia to the United Nations addressed to the Secretary-General

I have the honour to forward herewith the aide-memoire of the Ministry of Foreign Affairs of the Republic of Macedonia consisting of annexes I and II, in regard to the application filed with the International Court of Justice on the dispute concerning the implementation of article 11, paragraph 1 of the Interim Accord of 13 September 1995.

I should be grateful if you would have the present letter and its annexes circulated as a document of the General Assembly, under agenda item 109, and of the Security Council.

(*Signed*) Slobodan **Tašovski**
Ambassador
Permanent Representative

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Annex I

Annexes to the letter dated 17 November 2008 from the Permanent Representative of the former Yugoslav Republic of Macedonia to the United Nations addressed to the Secretary-General

Republic of Macedonia versus Greece

Application filed with the International Court of Justice for protection of the application of article 11 of the 1995 Interim Accord

In September 1995, Macedonia and Greece concluded the Interim Accord, after which Greece lifted the two year unilateral trade embargo against Macedonia. The Interim Accord was signed by the then Ministers of Foreign Affairs, Mr. Stevo Crvenkovski and Mr. Karolos Papoulias (the incumbent President of Greece), as well as by Mr. Cyrus Vance, Special Envoy of the UN Secretary General. The Interim Accord has a binding effect for the two Parties, it is registered with the UN by Greece, and has the character of an international treaty. Most importantly, the Interim Accord is the key document under which the two neighbouring countries have mutually confirmed their territorial integrity, established diplomatic relations and normalized their relations. (See the integral text of the Interim Accord: http://www.mfa.gov.mk/default.aspx?itemID=238)

The Interim Accord is also the only contractual legal framework for continuation of the negotiations on the name difference under the auspices of the UN Secretary General, in pursuance with the UN Security Council Resolutions 845 and 817 of 1993. The Interim Accord is an international treaty which is still in force and neither of the Parties has withdrawn from the Interim Accord. In addition, both Parties have agreed that any difference or dispute concerning the implementation of the Interim Accord will be submitted by either of them to the International Court of Justice, except for the name difference (Article 21 of the Interim Accord).

One of the objectives of the Interim Accord is to facilitate the further unimpeded establishment of the Republic of Macedonia as an independent and sovereign state in all spheres of international relations. In this respect, the Interim Accord sets forth an explicit obligation for Greece, contained in Article 11, not to object to the application by or the membership of the Republic of Macedonia in international, multilateral and regional organizations and institutions if this is in compliance with the UN Security Council Resolution 817 where the country is provisionally referred to as the „former Yugoslav Republic of Macedonia". By the consistent application of this provision, Macedonia became an OSCE member (October 1995), of the Council of Europe (November 1995), of the World Trade Organization (April 2003), and many other international organizations.

Regretfully, Greece grossly violated the Interim Accord by blocking the invitation to the Republic of Macedonia for NATO membership, at the NATO Bucharest Summit, in April 2008. If such practice of violation of the obligations set forth in the Interim Accord continues, Macedonia would be threatened with legal uncertainty and the aspirations of the country for further establishment in international relations would be significantly hampered or completely blocked by Greece. In addition, such a practice by Greece could lead to de facto invalidation of the Interim Accord, which would be counterproductive for both Parties.

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Consequently, the application lodged with the International Court of Justice (ICJ) has the sole purpose of protecting the Interim Accord from further violations, in light of the fact that this is a key agreement which is of essential importance for the normal relations between Macedonia and Greece. Macedonia is strongly convinced that the respect for and the consistent application of the Interim Accord is beneficial for both Parties and that what has been agreed upon must be honoured, by the letter and in spirit. Furthermore, in the application, the ICJ is requested to order Greece to cease objecting in any way, to the membership of Macedonia to NATO and/or any other international, multilateral and regional organizations and institutions, provided that Macedonia is referred to in such organizations or institutions as "the former Yugoslav Republic of Macedonia", in accordance with the UN Security Council Resolution 817.

The normal and equitable conduct of negotiations on the difference that Greece has regarding the constitutional name of Macedonia is conditioned to a great extent by the respect for and application of the Interim Accord. Thus, the protection and consistent respect for the Interim Accord is to serve as an additional motive for both Parties to arrive at a compromise solution on the name dispute, and reach a final settlement that would lastingly encompass the areas of good-neighbourly cooperation covered by the Interim Accord. In its application to the ICJ, Macedonia points out that the name difference is not the matter of the said application, as well as that in pursuance with Article 5 of the Interim Accord, Macedonia remains committed to the process of negotiations with Greece, mediated by the Special Envoy of the UN Secretary General.

In accordance with the Statute of the ICJ, Mr. Antonio Milososki, Minister of Foreign Affairs has been designated as the agent of the Republic of Macedonia before the ICJ in respect of the said application.

The submission of the application by the Republic of Macedonia is not a request for advisory opinion of the ICJ. This is a case which is to end with a final judgement of the ICJ, which as the chief judicial body of the UN has the sole jurisdiction over the 1995 Interim Accord. Unlike advisory opinions which are of consultative character, the judgements of the ICJ upon filed applications are final and legally binding upon the parties to the case, while the UN Security Council guarantees their implementation.

According to assessments of the hitherto practice of the ICJ, the procedure until the adoption of the judgement is expected to last from three to five years. In respect of the application before the ICJ, Macedonia has engaged a team of renowned foreign experts in international law, having rich experiences in proceedings before the ICJ.

The Republic of Macedonia has designated Dr. Budislav Vukas, Croatian professor in international law, as an ad-hoc judge in this case before the ICJ.

Annex II

The Interim Accord concluded between the Republic of Macedonia and Greece on 13 September 1995 (entered into force on 13 October 1995) is the only and appropriate legal framework to regulate the bilateral relations between the two countries, in several areas of their bilateral cooperation. Under the Interim Accord, Greece recognized the independence and sovereignty of the Republic of Macedonia within its internationally recognized borders, and diplomatic relations were established at the agreed level, by which the relations between the two neighbouring countries were basically normalized.

The Interim Accord is, inter alia, the only contractual (accepted by both Parties) legal framework for continuation of the negotiations under the auspices of the United Nations Secretary General, in pursuance with the United Nations Security Council Resolution 845 (1993), with a view to reaching an agreement on the difference referred to in paragraph 2 of the United Nations Security Council Resolution 817 (1993).

Taking into consideration the spirit of the Interim Accord, the goal of which, inter alia, is to facilitate the further unimpeded establishment of the Republic of Macedonia as an independent and sovereign state in all spheres of international relations, the Interim Accord sets forth an explicit obligation for Greece (contained in Article 11), which essentially determines the spirit of the Interim Accord. Namely, under Article 11 Greece agrees "Upon the entry into force of this Interim Accord .....,not to object to the application by or the membership of the Party of the Second Part in international, multilateral and regional organizations and institutions of which the Party of the First Part is a member; however, the Party of the First Part reserves the right to object to any membership referred to above if and to the extent the Party of the Second Part is to be referred to in such organization or institution differently than in paragraph 2 of the United Nations Security Council Resolution 817 (1993)." This is one of the key provisions of the Interim Accord the respect for which conditions the normal equitable course of the negotiations on the difference with respect to the name of the Republic of Macedonia under the auspices of the United Nations Secretary General.

In the process of acquiring invitation for NATO membership, the Republic of Macedonia respected this provision, agreeing that the process of accession to NATO proceed under the reference contained in paragraph 2 of the United Nations Security Council Resolution 817 (1993).

However, in the period prior to and during the NATO Summit in Bucharest, Greece, acting through its representatives, and in contravention of the obligation assumed under Article 11 of the Interim Accord, objected to extending an invitation to the Republic of Macedonia for fully-fledged membership of NATO. This objection by Greece de facto precluded the accession of the Republic of Macedonia to NATO. Placing the said objection, Greece directly and grossly violated the obligation assumed under Article 11 of the Interim Accord.

If this practice of violation of and disrespect for the obligations set forth in the Interim Accord continues, the Republic of Macedonia would be threatened with legal uncertainty and the aspiration of the country for further establishment in international relations, primarily in the European and Euro-Atlantic strictures would be completely impeded and blocked by Greece. In addition, such a practice by Greece could lead to de facto invalidation of the Interim Accord, which would be counterproductive for both Parties.

In light of the above stated, and in pursuance with Article 36, paragraph 1 of the Statute of the International Court of Justice and with Article 21, paragraph 2 of the Interim Accord, which explicitly sets forth that any difference or dispute that arises between the Parties concerning the interpretation or implementation of the Interim Accord shall be under the jurisdiction of International Court of Justice, the Republic of Macedonia has submitted an Application to the International Court of Justice for adjudication on the dispute between the Republic of Macedonia and Greece concerning the implementation of Article 11, paragraph 1 of the Interim Accord of 13 September 1995.

In its Application to the International Court of Justice, the Republic of Macedonia requests the Court to adjudge and declare that Greece, through its State organs and agents, has violated its obligations under Article 11, paragraph 1 of the Interim Accord, requesting further the International Court of Justice to order Greece immediately to take all necessary steps to comply with its obligations under Article 11, paragraph 1 of the Interim Accord. The Court is also requested to order Greece to cease and desist from objecting in any way, whether directly or indirectly, to the membership of the Republic of Macedonia to NATO and/or of any other international, multilateral and regional organizations and institutions, in circumstances where the Republic of Macedonia is to be referred to in such organizations or institutions by the designation provided for in paragraph 2 of United Nations Security Council Resolution 817 (1993).

In accordance with Article 42, paragraph 1 of the Statute of the International Court of Justice and Article 40, paragraph 2 of the Rules of the Court, Mr. Antonio Milososki, Minister of Foreign Affairs has been designated as the Agent of the Republic of Macedonia before the International Court of Justice in respect of the said Application.

The Republic of Macedonia has designated Dr. Budislav Vukas, Croatian professor in international law, as an ad-hoc judge in this case before the International Court of Justice.

The submission of the Application by the Republic of Macedonia is not to be interpreted, neither in the political nor in the legal sense, as a suspension or cessation of the implementation of the Interim Accord, or as a withdrawal of the Republic of Macedonia from the obligation to continue the negotiations as set forth in Article 5 of the Interim Accord. On the contrary, the Application with the International Court of Justice is aimed at underscoring the importance of the consistent respect for and full implementation of the Interim Accord, which should lead to strengthening the mutual trust between the Parties and to the future full normalization of the bilateral relations between the two countries by reaching a final settlement.

The matter of the Application before the International Court of Justice is not the difference between the two Parties with respect of the name of the Republic of Macedonia, which in accordance with Article 21, paragraph 2 of the Interim Accord is explicitly exempted from the jurisdiction of the International Court of Justice. The submission of the Application by the Republic of Macedonia is not a request for advisory opinion of the International Court of Justice on the difference with respect to the name of the Republic of Macedonia.

This application is not to be equated with, for example, the advisory proceedings before the International Court of Justice regarding the legality of the unilaterally proclaimed independence by Kosovo, recently instituted before the International Court of Justice, following the United Nations General Assembly Resolution.

In line with the usual practice of the International Court of Justice, the procedure until the adoption of the judgment is expected to last several years. The judgments of

the Court are legally binding for the Parties and their implementation is guaranteed by the United Nations Security Council. Taking into consideration the authority that the International Court of Justice enjoys, its judgments affect the renown of states in international relations. In this context, the Application of the Republic of Macedonia, per se should have a positive impact on the conduct of both Parties in pursuance with the Interim Accord and should not impede the normal equitable course of the negotiation process led under the auspices of the United Nations Secretary General.

In the proceedings before the International Court of Justice, the Republic of Macedonia will be represented by a team of renowned international lawyers with extensive experience in proceedings before the International Court of Justice, experts of the Ministry of Foreign Affairs and domestic legal experts in the area of international law.